IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 331 OF 2006 (MS)

Kunwar Singh Rauthan,
S/o Umrao Singh Rauthan,
R/o Garhwal Tailors, 3 Vankhandi, Rishikesh,
District Dehradun. .....Petitioner.

Versus

Smt. Krishna Devi,
W/o Sri Mohan Singh,
R/o 3, Vankhandi Gram, Rishikesh,
District Dehradun. .....Respondents

Mr. L.K. Tiwar, Advocate for the petitioner.

Dated: 04.04.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for a writ of certiorari setting aside the impugned order dated 28.01.2006 passed by the Prescribed Authority/Civil Judge Junior Division, Rishikesh in P.A. Case No. 3/ 2005 Smt. Krishna Devi Vs. Kunwar Singh and grant the permission to cross examine the plaintiff respondent and other witnesses in the above noted P.A. Case.

2. Briefly stated, a petition under for release of shop under Section 21 of the U.P. Act No. 13 of 1972 which is in the tenantcy of the petitioner was filed by the respondent /plaintiff being Case No. 3 of 2005.

3. The petitioner has already filed his written statement and an application has also been filed during the pendency of the

case for seeking permission for the cross examination of the plaintiff/respondent and other witnesses. The said application has been rejected. The petitioner has challenged the said order under Article 226/227 of the Constitution of India.

4. The Court below has indicated that from the application there does not appear any reasons for cross-examination. It is well settled in ***Khushi Ram Dedwal Vs. Addl. Judge, Small Causes Court/Prescribed Authority, Meerut and others ARC 1997 (2) Page 674*** that right to cross examination is granted only in exceptional cases and nobody has a right for cross examination. Relevant observations of the above said case is quoted below:-

"6. Section 34(1) (b) of the Act permits the authorities under the Act to receive evidence on affidavits and clause (a) confers power on the authorities for summoning and enforcing the attendance of any person and examining him on oath."

5. In view of the aforesaid, I find no merit in the writ petition and is dismissed at the stage.

6. No order as to costs.

(Rajesh Tandon, J.)

04.04.2006
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